

Democrats on Prescription Drugs: A Record to Be Proud Of

As Republicans finalize a prescription drug conference report without the participation of House Democratic conferees, it is important to remember that House Democrats have a voting record to be proud of on this issue. When it comes to fighting for seniors, disabled Americans, and health care providers, Democrats have repeatedly voted for alternatives that are far superior to the Republican proposals.

In June, 96% of Democrats (195 Members) voted to reject HR 1, which passed by 1 vote (216-215). This bill fails to provide seniors with an affordable benefit, leaves a significant gap in coverage, disadvantages rural communities, encourages employers to drop retiree drug benefits, contains the controversial Premium Support privatization measure, and fails to provide lower drug prices. **Instead, Democrats voted for 3 strong alternatives:**

- **Dooley Previous Question:** 203 Democrats voted against the Previous Question on the Rule for HR 1, in order to allow consideration of a plan that was modeled on HR 1568, introduced by Rep. Cal Dooley. As compared to HR 1, this bill would have targeted assistance to low-income seniors and seniors with high drug costs as part of Medicare Part B for no additional premium. It would also have provided all seniors with a Medicare-approved discount drug card.
- **Rangel-Dingell Substitute:** 174 Democrats voted for HR 1199, the Democratic substitute offered by Rep. Charles Rangel. As compared to HR 1, this substitute would have guaranteed seniors an affordable drug benefit under Medicare, protected the traditional Medicare program, increased funding for providers, and improved rural health care.
- **Thompson (CA) Motion to Recommit:** Democrats were 100% united in voting for a Motion to Recommit that was modeled on the bipartisan Senate bill. As compared to HR 1, this bill would have provided a significantly better drug benefit for our seniors, did not contain the controversial Premium Support provision, included a fallback provision, increased funding for providers, and improved rural health care.

Since July, Democrats have offered a series of motions to instruct conferees showing our commitment to key issues and building a record of supporting beneficiaries and providers.

➤ **Democrats have voted repeatedly to reject the privatization of Medicare:**

- On July 14, 2003, 189 Democrats voted for the Davis (TN)-Davis (FL) Motion to Instruct Conferees to reject privatization and provide a fall-back plan. (Roll Call # 359; failed 191-221)
- On September 10, 2003, 188 Democrats voted for the Michaud Motion to Instruct Conferees to reject privatization and provide a fall back plan. (Roll call #502; failed 189-220)
- On October 28, 2003, 188 Democrats voted for the Brown Motion to Instruct Conferees to strike Premium Support. (Roll Call #573; failed 194-209)
- On October 30, 2003, 193 Democrats voted for the Davis Motion to Instruct Conferees to strike Premium Support. (Roll Call #599; failed 195-217).

➤ **Democrats have voted repeatedly to improve rural health care:**

- On September 24, 2003, 194 Democrats voted for the Stenholm Motion to Instruct Conferees to accept the best provisions on rural health, primarily from the Senate bill. (Roll Call # 510; failed 202-213).
- On September 25, 2003, 192 Democrats voted for the Kind Motion to Instruct Conferees to accept the best provisions on rural health, primarily from the Senate bill. (Roll Call #522; 199-220).
- On September 30, 2003, 195 Democrats voted for the Sandlin Motion to Instruct Conferees to accept the best provisions on rural health, primarily from the Senate bill. (Roll Call #524; failed 202-205).
- On October 1, 2003, 201 Democrats voted for the Case Motion to Instruct Conferees to accept the best provisions on rural health, primarily from the Senate bill. (Roll Call #528; failed 208-215)

➤ **Democrats have voted repeatedly to improve the drug benefit and protect Medicare for our seniors:**

- On October 7, 2003, 180 Democrats voted for the Bishop Motion to Instruct Conferees to eliminate \$178 billion for Health Savings Accounts in order to provide more funds to close the coverage gap "donut hole". (Roll Call #533; failed 181-214).
 - On October 7, 2003, 182 Democrats voted against the Flake Motion to Instruct Conferees to expand means-testing to other provisions in the bill. (Roll Call #534; failed 161-234).
 - On October 15, 2003, 189 Democrats voted for the Schakowsky Motion to Instruct Conferees to eliminate \$178 billion for Health Savings Accounts in order to provide funds for employer coverage. (Roll Call #542; failed 190-218).
- **Democrats have voted to support Doctors:**
- On October 6, 2003, 189 Democrats voted for the Capps Motion to Instruct Conferees to strike Premium Support and transfer funds to doctors. (Roll Call #615; failed 197-209).
- **Democrats have voted to support Hospitals:**
- On November 7, 2003, 177 Democrats voted for the Cardoza Motion to Instruct Conferees to strike Premium Support in order to provide increased funds for Medicaid Disproportionate Share hospital payments. (Roll Call #619; failed 197-209).
 - In addition, in each of the motions above to improve rural health care, Democrats voted to support rural hospitals. (Roll Call #s 510, 522, 524, 528, 619).

While we have not seen specific language on a conference agreement, **Democrats will continue to fight for an affordable, guaranteed prescription drug benefit under Medicare. Democratic members should be confident of their strong voting record** and Members are urged to withhold judgment until all of the details are available.

Office of the Democratic Whip

Steny Hoyer



MEDIA RELEASE

For Immediate Release
November 13, 2003

Contact: Stacey Farnen
202-225-3130

HOYER: DEMOCRATS WILL SUPPORT Rx DRUG BILL THAT PROVIDES REAL, SUBSTANTIAL BENEFIT, OPPOSE ANY BILL THAT DOES NOT

WASHINGTON, D.C. –House Democratic Whip Steny Hoyer (MD) released the following statement in response to President Bush’s speech on Medicare this afternoon in Orlando, Florida:

“While I am pleased that President Bush found the time to squeeze in a speech about Medicare in between two fundraisers in Florida today, I would like to have seen more leadership from the White House in crafting a bipartisan prescription drug bill that provides substantial help to seniors, lowers drug costs and strengthens Medicare. Frankly, the Administration has remained silent on the sidelines in this debate.

“Democrats have fought for over a decade to bring down drug prices and provide guaranteed, defined prescription drug benefits under Medicare. Democrats will support any bill that achieves these goals, and oppose any bill that does not. No one can question our commitment to providing this help to seniors.

“However, news reports indicate that Republican Leaders are poised to ram through a prescription drug bill that doesn’t lower drug costs, increases premiums, leaves gaps in coverage, forces seniors into private insurance plans and disadvantages rural seniors.







“It appears that the Republican plan forces seniors to take a back seat to two other long-term goals of the Republican Party: dismantling Medicare and creating Health Savings Accounts (HSAs). HSAs have nothing to do with providing prescription drug coverage to seniors and offer little to middle class American families who Republicans claim they would help. And the idea that Congress is forced to haggle over tax shelters rather than focusing on prescription drugs is unconscionable.

“If Republicans produce a plan that matches press reports, Democrats are confident that the more seniors learn of the GOP’s confusing and ill-conceived plan, the more they’re going to wonder why Congress didn’t just do exactly as the Democrats proposed from the beginning.”

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BAD DEAL FOR SENIORS, BAD DEAL FOR MEDICARE

SWEET DEAL FOR BIG DRUG COMPANIES

Keeps Drug Prices High and Drug Company CEOs Smiling	 Prohibits Medicare from negotiating better prices, and blocks reimportation of cheaper drugs from other countries.
Causes 2 to 3 Million Seniors to Lose Retiree Drug Coverage	 At least 2 to 3 million seniors will lose their retiree drug coverage under this plan.
Coerces Seniors Into HMOs and Increases Medicare Premiums	 Plan purports to be “voluntary” – but forces up to 10 million seniors to pay more for Medicare if they don’t give up their doctor and join an HMO.
Forces 6 Million Seniors to Pay More for Medicine	 Forces 6 million low-income seniors who get additional assistance from Medicaid to pay more for their prescriptions; imposes an unfair assets test that disqualifies seniors if they have modest savings.
Huge Coverage Gap Leaves Half of Seniors Without Coverage for Part of Every Year	 \$2,800 gap in coverage leaves half of all seniors without coverage for part of the year – even though they <u>have to pay premiums year-round</u> .
Takes \$7 Billion Needed for Retiree Coverage and Spends it on Tax Breaks for Wealthy	 Creates new \$7 billion tax shelter for the wealthy that undermines employer coverage and adds to the number of uninsured.

A BAD DEAL FOR SENIORS, A BAD DEAL FOR MEDICARE

The Medicare prescription drug legislation emerging from the conference appears to have compromised only with the drug industry, the insurance industry, and the radical right – overriding the needs of seniors and people with disabilities. It is a significant step backwards from the Senate bill and in some respects is worse than the House-passed bill. Under this bill, 2 to 3 million seniors could lose their retiree prescription drug coverage; 6 million of the poorest Medicare beneficiaries could get less drug coverage than they have now; and up to 10 million seniors could see their Medicare premiums rise if they refuse to join an HMO. This debate is no longer about adding a drug benefit – it's about saving Medicare.

Coerces seniors into HMOs. The proposed plan would grossly overpay private HMOs and PPOs and includes a \$12 billion slush fund to bribe plans to participate, creating a two-tiered Medicare system. Better benefits and lower premiums would only be available through private plans – not an option for most rural seniors. Worse, it asks all seniors to pay for this private system, even though some won't have access to it.

Increases the cost of Medicare for as many as 10 million seniors. Under the guise of a premium support demonstration, millions of Medicare beneficiaries will be forced to pay more for Medicare if they don't give up their doctor and join an HMO. Although they say it will be limited, as many as 10 million seniors could be forced to participate. This policy converts Medicare from a defined benefit to a defined contribution program.

Leaves half of seniors without drug coverage for part of the year. The proposed drug benefit contains a \$2800 gap in coverage that will leave half of seniors without drug coverage for part of the year. In addition, the proposal significantly weakens the so-called "fallback", which ensures that rural beneficiaries will have access to a Medicare drug benefit.

Undermines retiree coverage for millions of seniors. Millions of seniors who have good drug coverage now through their retiree health plan could lose it under the proposed plan. By discriminating against seniors with retiree health coverage, the plan provides incentives for employers to drop existing coverage.

Forces 6 million seniors to pay more for medicine. The plan prohibits Medicaid from filling in the gaps in the new Medicare drug benefit, as Medicaid does now for other benefits. Given the ongoing state budget crises, up to 6 million low-income seniors and people with disabilities could receive less help with their prescription drug costs than they do now. In addition, the plan keeps the unfair assets test for many low-income seniors, denying them access to assistance with out of pocket costs. It also leaves states with a permanent fiscal burden that could lead to cuts in long-term care and coverage for low-income families.

Bows to drug industry pressure and keeps prices high. The proposed plan bows to drug industry pressure and prohibits Medicare from negotiating better prices. It also includes watered down policies on access to generic drugs and prescription drug reimportation, allowing drug companies profits to skyrocket at the expense of patients.

Creates artificial Medicare funding crisis. In the 11th hour, a new cost "containment" policy has been added to the proposed plan. It would create a so-called crisis when an arbitrary cap on general revenue funding is reached, which would be used to advance radical cuts to the program, including benefit cuts, payment cuts for hospitals, nursing homes, and home health providers, and increased cost-sharing.

Takes \$7 billion needed for retiree coverage and spends it on tax break for the wealthy. The proposed plan includes Health Security Accounts, which are little more than tax shelters for the wealthy. This creates a unprecedented tax loophole that would undermine existing employer coverage and add to the ever-growing number of uninsured. These funds should be used to prevent employers from dropping coverage or to improve the drug benefit.

Four Fatal Flaws of Republican Medicare Reform

Medicare was created in 1965 with a basic, fundamental principle in mind: health care coverage should be guaranteed, affordable, and equitable to all senior citizens. Since its inception, every reform of Medicare has maintained this principle. Earlier this year, the House and the Senate passed competing \$400 billion Medicare reform plans. Both plans provided prescription drug coverage to senior citizens. The Senate bill strengthened traditional Medicare while maintaining its guarantee as an entitlement to those over 65. However, only the House plan sought to privatize Medicare physician and hospital services, radically ignoring Medicare's guiding principle. Unfortunately, as these two bills have been reconciled in a Conference Committee, it has become clear that the final bill will have four fatal flaws and look more like the House passed legislation.

Prescription Drug Prices Will Likely Increase. The final bill will do nothing to lower prescription drug prices. Explicitly, the final bill will prohibit the Secretary of Health and Human Services from negotiating lower drug prices on behalf of America's 40 million Medicare beneficiaries. The only way to lower drug prices is to harness the market power of Medicare, like the Veteran's Administration has done for years. Unfortunately, this legislation protects the profits of drug manufacturers instead of providing real savings to seniors. In addition, the bill includes no substantive provisions that allow Americans to import drugs from Canada or other well regulated countries where prices are lower. Provisions that would have allowed generic drugs on the market sooner have also been watered down to protect the brand name drug industry, creating yet another give away to the drug industry so they can keep prices high. Democrats believe we need to address rising drug prices in several ways. Unfortunately, this bill is a victory for the drug industry because nothing in it will lower prices.

The Drug Benefit is Inadequate. The final bill does not provide the kind of coverage seniors expect or deserve. The compromise legislation contains a large coverage gap for seniors that spend more than \$180 per month for their medications (\$2200 in drugs a year). By the time this benefit takes effect, the average senior will spend more than \$258 per month (\$3,100 a year). For months every year, these seniors could be forced to pay 100% out of their own pockets while still paying premiums in excess of \$35 per month. No other drug plan, including the drug program available to Congress, is designed this way. In addition, private insurance companies administering the benefit have wide latitude in setting premiums and deductibles. They can make decisions about which drugs are covered as well as which pharmacies you are allowed to visit. Democrats believe seniors are entitled to coverage they can count on. A drug benefit should be comprehensive, affordable, and available everywhere.

Privatization Will Lead to Higher Part B Premiums for Millions of Beneficiaries. Under the plan, millions of seniors that choose to remain in traditional Medicare would see their premiums rise. A study conducted by the Bush Administration shows that premiums under the proposed legislation will vary significantly depending on where you live. Some beneficiaries would pay up to three times as much as others for their Part B services. That means for physician services, a senior in Arkansas may pay almost \$200 a

month while a senior in California may be charged only \$60. This is unconscionable. Democrats believe a fundamental tenet of Medicare has always been equity. We believe all people deserve a fair deal – not just some that happen to live in a specific area.

Seniors Who Already Have Drug Coverage May Lose It. The plan does not go far enough to protect beneficiaries who already have good drug coverage through their former employers. The bill does not provide enough incentives to companies to maintain coverage they provide to their retirees. In July, the Congressional Budget Office estimated that as many as a third of beneficiaries with existing coverage may lose it – this is almost 4 million people. Most of these people have excellent drug benefits that far exceed the benefit under consideration. This legislation was supposed to improve and expand prescription drug coverage, not take it away. Democrats believe retirees should keep their coverage if they are happy with it. We believe Congress should provide better incentives to companies so they will keep their retirees covered.

Cuts Medicare in the Future. The bill eliminates Medicare's promise to retirees by limiting the ability of Congress to fund the program. As the baby boomers retire and require more physician visits, hospital services, and pharmaceutical coverage, Republicans want to limit the amount of money that can be spent on Medicare. This means services seniors expect and deserve will be cut, premiums will increase, or reimbursements to physicians and hospitals will be severely restricted. Democrats believe promises require a commitment to fund the program adequately. Unfortunately, this bill means people are no longer entitled to comprehensive care under Medicare.

Democrats, including me, have fought for years to add a prescription drug benefit to Medicare. However, we are not willing to destroy the fundamental promise of Medicare, the program that seniors and the disabled have known and trusted for nearly 40 years. Until these problems are fixed, I cannot support this Medicare package. This bill should remain in the Conference Committee until a real benefit that maintains Medicare's promise to senior citizens is agreed to.

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ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

W. "BILLY" TAUZIN, LOUISIANA,
CHAIRMAN

November 7, 2003

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DAN R. BROUILLETTE, STAFF DIRECTOR

NO THANKS FOR THIS TURKEY

Dear Democratic Colleague:

The House will soon be voting on the conference report on H.R. 6, the "Energy Policy Act of 2003." No Democrats were allowed to participate in this conference. While we do not have the latest text of the conference report, I wanted to give you an update on the bill, as I understand it. Based upon press accounts and statements from our Republican colleagues, this conference report will contain numerous provisions which **endanger the environment, hurt consumers, and lavish unaffordable subsidies on energy companies**. While a number of decent provisions, such as enforcing electric reliability standards, are expected to be in a conference report containing more than 1,000 pages, this bill, negotiated in secret by Republicans and their special interest lobbyists, has received widespread condemnation from environmentalists, consumer groups, and editorial boards across the country. Here is a glimpse of what you will be asked to vote on:

Endangering the Environment

Amends the Clean Air Act to allow certain areas to ignore ozone attainment deadlines.

Bars the Environmental Protection Agency from protecting drinking water supplies by regulating companies that inject diesel for purposes of oil and gas recovery (this process, known as hydraulic fracturing, is championed by Halliburton).

Exempts oil and gas exploration companies from waste water runoff rules designed to protect our lakes, rivers, and streams.

Guts hydroelectric relicensing rules, giving special treatment to utilities at the expense of states, localities, Indian tribes, and fishing and sportsmen groups.

Provides a special liability waiver for MTBE producers who face lawsuits from states and localities for polluting their water supplies, thereby shifting cleanup costs to taxpayers.

Hurting Consumers and Investors

Repeals the Public Utility Holding Company Act, which is designed to protect ratepayers from paying for risky investments by holding companies and to protect investors from shady corporate accounting practices.

Fails to include important anti-fraud provisions to bar the kind of schemes like “Death Star” used by Enron and others in the Western electricity crisis to bilk consumers of billions of dollars. (These provisions, which Democrats unsuccessfully offered during the House consideration of the energy bill, were recently endorsed by a Senate vote of 57-40.)

Places new regulatory restrictions on the Federal Energy Regulatory Commission to protect consumers from overcharges.

Providing Unaffordable Subsidies to Energy Industries

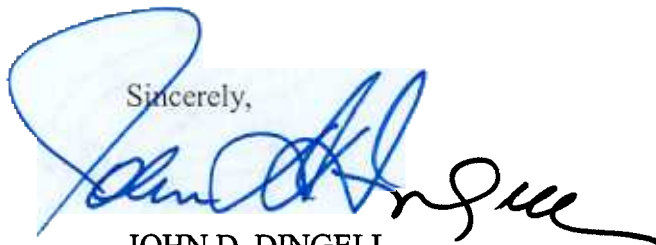
Gives tax subsidies of \$18-23 billion to energy industries – more than double what the Administration asked for.

Provides no offsets for the cost of the subsidies, while at the same time Republicans call for offsets to pay for aid to veterans and firefighters in other bills.

Gives oil and gas companies hundreds of millions of dollars in relief from royalty payments.

Weeks after this bill is considered on the House Floor, we will undoubtedly continue to learn about dozens of special interest provisions that have crept into this bill during the secret conference conducted by our Republican colleagues. I intend to vote “no” on this Thanksgiving turkey, and I urge you to do the same.

Sincerely,



JOHN D. DINGELL
RANKING MEMBER

ENERGY CONFERENCE REPORT

The House GOP leadership has indicated that it is likely that the House will consider the conference report on the energy bill next week – despite the fact that Democrats are still in the dark regarding the legislative language that Republicans are planning to bring to the Floor. There will reportedly be a conference meeting on November 12th, with the conference report likely going to the House Floor on November 13th.

Attached are:

- Talking Points on Democrats Being Completely Shut Out of the Energy Conference Report
- November 7th letter from Rep. Dingell to Democratic colleagues summarizing a number of his objections to the emerging conference report



Office of Democratic Leader Nancy Pelosi

November 7, 2003

DEMOCRATS HAVE BEEN COMPLETELY SHUT OUT IN WRITING ENERGY CONFERENCE REPORT – UPDATED

GOP Has Reached A New Low in Trampling on the Rights of the Minority

“The two Republican leaders of the energy bill conference plan to write the final legislation themselves.”

CQ Today, 9/12/03

“The GOP plan has been to deliver to Bush a business-friendly bill that closely tracks the recommendations of a 2001 White energy policy task force chaired by Vice President Dick Cheney. The legislation would heavily emphasize increased production to meet the nation’s appetite for energy.... Domenici and Tauzin infuriated Democrats by negotiating much of the bill behind closed doors.”

CQ Weekly, 10/18/03

The country is almost evenly divided between Democrats and Republicans – in the Senate, there are 51 Republicans and 49 Democrats and, in the House, 53 percent of Members are Republicans and 47 percent are Democrats. And yet Democrats – who represent about half of the American electorate – are being COMPLETELY shut out of a comprehensive bill that will probably impact energy policy over the next decade. Following are talking points about Democrats being shut out.

- **The Process of Writing The Energy Conference Report Has Been A Travesty From the Very Beginning.** Ever since the House conferees on the energy bill were appointed on September 4th, the process of writing the Energy conference report has been a complete travesty. As reported by CQ Today, on September 11, it was announced that “the two Republican leaders of the energy bill conference plan to write the final legislation themselves.” In response to this announcement, Ranking Democrat Jeff Bingaman wrote to Chairman Domenici: *“My staff was informed this morning of your decision to write the preliminary version of the conference report on H.R. 6, the energy bill. .. without any substantive involvement by Democratic conferees ... I believe that this is a deeply flawed strategy. If the goal is to achieve true bipartisan consensus on the important energy challenges facing the nation, this is a mistaken way of going about it. A process in which the duly appointed conferees for 49 Senators get only to react to legislative text that has been negotiated without their input would not seem*

to constitute a real effort to find common ground on crucial and complex issues that are not inherently partisan. There is no substitute for actually being involved when key decisions are first made, and no amount of labeling of the resulting text as draft or provisional can mask this fact."

- **Behind Closed Doors, Two Powerful GOP Chairman Are Writing A Massive, Sweeping Energy Bill That Will Have A Direct Impact on Every American.** Indeed, it is truly alarming that such a massive, complex, far-reaching piece of legislation is being written behind closed doors. The comprehensive energy bill that Chairmen Tauzin and Domenici are writing – with titles covering such topics as electricity, oil and gas production, nuclear power, renewable energy, climate change, ethanol, clean coal technology, and energy tax breaks – will affect every American. As the Washington Post has pointed out, *"Every line of this complex legislation has political, economic and environmental implications."* And yet it has generally been written in the most secretive, closed-door setting possible.
- **There Has Been Only One Meeting of the Conferees – And That Was Purely Ceremonial.** The Senate appointed its conferees back on July 31st and the House appointed its conferees on September 4th. However, over the last two months, there has only been one actual meeting of the conferees – a ceremonial meeting on September 5th. At that meeting, Members could only offer opening statements. Since then, the energy conference report has been written by Chairmen Tauzin and Domenici and their staffs (with the exception of the tax title, which is being written by Chairmen Thomas and Grassley.) There will reportedly be a second meeting of the conference committee on November 12th, but this will be one day before the conference report is being brought to the House Floor and will be after all of the critical decisions have been made.
- **Chairmen Tauzin and Domenici Have Completely Ignored Senate-Passed Bill.** In an unusual procedure breaking with all past precedent, Chairmen Domenici and Tauzin have basically ignored the Energy Bill actually passed by the Senate. In order to get an energy bill out of the Senate, the GOP-controlled Senate passed the Democrats' energy bill from last year. However, in developing a conference report, Chairmen Tauzin and Domenici have been working from the House-passed bill and a Domenici bill (which never passed either chamber) – and have generally simply ignored the Senate-passed legislation.
- **No Suggestions from Democrats Have Been Accepted by the Conferees.** Although Chairmen Tauzin and Domenici have countered that drafts of certain, completed titles in the conference report have been shared with Democratic staff, the fact is that no suggestions on significant issues that have been made by Democrats have been accepted by the Republican conferees.
- **It Is Not True That Democrats Treated Republicans The Same Way When Previous Energy Bills Were Written.** As Sen. Bingaman wrote to Sen. Domenici, *"The procedure that you have decided on is a marked departure from the treatment given to Republican conferees and their staffs in the last two major conferences on energy legislation, last year and in 1992. I am deeply disappointed that the courtesy and cooperation in conference*

afforded by me and Sen. J. Bennett Johnston, where Republicans were in the minority, is not being reciprocated.” For example, when the 1992 energy bill was written and Democrats were in the majority, there was bipartisan consultation and there were six meetings of the conferees as the conference report was being written.

- **Energy Bill Is Example of How, Under GOP, Conference Committee Deliberations Have Completely Broken Down.** Many scholars have written about the deterioration of the conference committee process in Congress. How the energy bill is now being handled is a perfect example of how this process has completely broken down. As a recent Washington Post (10/19/03) article points out, *“According to several scholars, ... the minority party has been particularly squeezed lately. ‘We’ve been moving away from genuine deliberation on conferences ... , but it’s now gotten to the point of embarrassment,’ said Thomas E. Mann, a Congress-watcher at the Brookings Institution.”*
- **Finally, There Are Numerous, Special-Interest Provisions in the Tauzin-Domenici Draft Conference Report That Were Neither in the House-Passed or Senate-Passed Bills.** A final example of how far afield Chairmen Tauzin and Domenici have gone in writing the energy conference report is that numerous provisions are showing up in the Tauzin-Domenici draft of the final conference report that were neither in the House-passed or Senate-passed bill. Many of the last-minute provisions being added to the conference report are being written by lobbyists downtown – something some of the lobbyists have openly admitted.

Posted on Fri, Nov. 07, 2003 **Ft. Worth Star Telegram**

A radical notion?

Star-Telegram

U.S. Rep. Joe Barton, R-Ennis, maintains that members of Congress who oppose his efforts to extend Fort Worth-Dallas' deadline for meeting federal ozone standards are guilty of "radical extremism in environmental policy."

What's radical about wanting clean air, and the sooner the better?

Ground-level ozone can worsen breathing problems for children and elderly people, particularly for those suffering from asthma, bronchitis and emphysema.

In North Texas, more than 200,000 children suffer from asthma that is worsened by high ozone levels, according to the American Lung Association.

Barton is at odds with Rep. Eddie Bernice Johnson, D-Dallas, who strongly opposes the deadline extension that the Ennis lawmaker wants included as an amendment to a major energy bill pending in a House-Senate conference committee.

Barton's proposal would allow the Environmental Protection Agency to move back compliance deadlines for ozone standards in regions affected by pollution blown in from other cities or states.

Fort Worth-Dallas claims that pollution from Houston has contributed to its poor air quality. But federal court rulings have barred various areas, including the Metroplex, from extending the compliance deadline to 2007 based on those claims of migrating pollution.

Unfortunately, the House voted 232-182 last week against Johnson's motion to pass a nonbinding resolution instructing the conference committee on the energy bill to strip Barton's amendment from it.

Johnson and Rep. Martin Frost, D-Arlington, should be commended for backing the resolution. Three Republicans representing parts of Tarrant County -- Reps. Kay Granger of Fort Worth, Michael Burgess of Highland Village and Barton -- unwisely voted against it.

North Central Texas has procrastinated too long in cleaning up its air. No further delay should be permitted.

Billings Gazette (Montana)

Editorial: Energy policy needs balance

Gazette Opinion

The debate over national energy policy is usually cast as a polarized battle between environmentalists and developers.

It's time to move to middle ground. We can't conserve our way out of an energy crisis. We can't drill our way out either.

As of last week, GOP congressional leaders had yet to reveal their final draft of a conference energy bill. Remember the uproar over the secret meetings of Vice President Dick Cheney's energy commission? Well, more recently, Rep. Billy Tauzin, R-La., and Sen. Peter Domenici, R-N.M., have been holding private meetings to craft the conference energy bill. More than two dozen House and Senate conferees were appointed to the committee, but most of them aren't in the room where the majority of energy bill decisions are being made.

Uncertain outcome

No one seems to know what all will be in the final energy bill. It can contain just about anything that the GOP leadership wants to put into it. When senators and representatives vote, they will have to vote for or against the whole bill. There won't be any tinkering with parts, adding or deleting sections.

What might be slipped into the energy bill?

Sen. Conrad Burns has asked Domenici to write in federal condemnation powers for high-voltage electrical transmission lines in Montana, Oregon, Washington, Idaho and California. A coalition interested in developing the Otter Creek coal tracts in southeastern Montana has said the legislation is key to their plans. However, federal eminent domain authority could override Montana laws, which were recently revised to provide greater protection to private landowners.

Sen. Max Baucus is trying to extend the moratorium on drilling Montana's Rocky Mountain Front, an area known for its rugged beauty and abundant wildlife.

Multiple uses

The energy bill draft that Domenici and Tauzin released in September was weighted heavily in favor of oil and gas development on America's public lands at the expense of all other values. Congress must balance multiple uses. There are ways to mitigate the affects of development on surrounding lands used for agriculture, hunting, fishing and hiking.

Tax incentives should be used to reward industry and individuals for responsible energy production and use.

For example, subsidies for coalbed methane drilling in Montana and Wyoming (which Baucus, Wyoming Rep. Barbara Cubin and Sen. Craig Thomas back) ought to require production methods that prevent impairment to water and land.

Energy policy decisions should be made in public with bipartisan participation. Tax breaks should be balanced between domestic development and conservation/alternate energy measures. Tax breaks must reward good environmental stewardship.

Americans don't have to choose between agriculture and energy development or between electricity production and clean air. In the 21st century, we have technology to achieve responsible development.

The Capital Times (Wisconsin)

An editorial

October 18, 2003

A smart federal energy policy would look to the future, emphasizing conservation to reduce America's dependence on foreign energy sources and encouraging the expansion of renewable energy production to help stabilize prices.

But the energy policy currently being crafted by Republicans behind closed doors in Washington looks to the past by continuing subsidies for polluting fossil fuel producers and doing nothing to reduce the country's addiction to imported oil.

Not that we're surprised. Vice President Dick Cheney's private meetings two years ago with energy interests, which pointedly excluded environmentalists, left no doubt which industries were in the Bush administration's favor.

However, there are some in Congress who understand that the United States must change course on its energy policies, and the Senate energy bill came through with several provisions in the right direction. Regrettably, they won't see the light of day in the final energy bill.

Sen. Pete Domenici, R-N.M., and Rep. Billy Tauzin, R-La., head the conference committee reconciling the House and Senate energy bills. They've shut Democratic committee members out of the process and are busy loading the bill with fossil fuel-based pork projects to secure votes while at the same time removing conservation measures, including:

Requiring large utilities to use renewable fuels to produce 10 percent of their electricity by 2020. Currently less than 2 percent of the nation's electricity is produced by wind, solar, geothermal and biomass sources.

Requiring improved fuel economy for cars and light trucks. The corporate average fuel economy standard for new cars has been stalled at 27.5 mpg for 18 years.

Telling President Bush to find ways to save 1 million barrels of oil per day by 2013. Although this measure is not in the final Senate energy bill, senators earlier this year did vote 99-1 to support it.

Here's what Domenici and Tauzin have included in the legislation so far:

Opening the Arctic National Wildlife Refuge for oil drilling.

Sparing producers of the gasoline additive MTBE, a suspected carcinogen that has fouled water supplies, from liability in lawsuits.

Urging, instead of requiring, automakers to design nonpolluting hydrogen vehicles by 2020.

Efforts increased this week to nail down an energy bill that both houses could support and that Bush would sign. That may result in dumping the ANWR drilling provision, but the rest of this backward bill is likely to pass. It will mean more pollution, continued price volatility and no incentive for big energy producers to wean themselves from old technologies or fossil fuels.

Congress Embarrassed

Friday, October 24, 2003; Page A24

WHERE IS the energy bill? According to spokesmen for the House and Senate energy committees -- whose staffs have been writing the bill -- the legislation is now finished, except for a few sections on taxes. Yet although this bill may become law in a few days, no Democrats, few Republicans and even fewer members of the public have seen it: The bill's language will be released, committee chairmen now say, no earlier than 48 hours before a possible vote -- an improvement over the 24 hours originally promised, but not much. There appears to be no plausible explanation for this deep veil of silence -- except possibly embarrassment. For the past several weeks, members of Congress have scrambled to stuff last-minute provisions that benefit their districts or their local industries into this piece of legislation: Perhaps they don't want anyone to find out about them before it's too late.

That, at any rate, is the only conclusion that can be drawn when we hear about measures such as the one Rep. Joe Barton (R-Tex.) is proposing to include in the bill. Mr. Barton's amendment would, according to his staff, merely allow the Environmental Protection Agency to give urban areas more time to meet air pollution deadlines set out in the Clean Air Act. No one denies that this measure is intended to apply to that section of the Dallas-Fort Worth region contained in Mr. Barton's district -- an area known for its high number of air-polluting industries. The trouble is, the change would affect the air quality in the entire region and might affect the enforcement of the Clean Air Act across the country. Among those affected, for example, are the Dallas constituents of Rep. Eddie Bernice Johnson (D-Tex.), who first learned that this measure was included in the energy bill from the Dallas Morning News editorial Web log.

This provision was not in either version of the energy bill originally passed by the House and the Senate. Few of the citizens of Dallas have been acquainted with this measure, and Mr. Barton has not gone out of his way to talk about it. As of yesterday afternoon, for example, we were unable to find information about the measure on the congressman's Web site. Mr. Barton is able to stuff this damaging legislation into this already pork-laden bill only because he is on the conference committee that, in this Congress, effectively meets in secret. Is that democracy?

The Patriot News (Pennsylvania)

SHORTSIGHTED

Thursday, November 06, 2003

It was the California electric crisis in the spring of 2001 that prompted the Bush administration to make passage of an energy bill a major priority. Vice President Dick Cheney was assigned to develop a proposal.

He did that, holding discussions with energy company officials, the records of which the administration has successfully fought to keep out of the public domain.

The result of this effort was a decidedly one-sided, shortsighted plan, largely focused on producing more domestic oil and gas. It would have done virtually nothing for California, whose electric crisis, in any event, appears to have been caused in no small part by power manipulation by Enron and others.

It was only the Aug. 14 Northeast blackout that prompted members of Congress to propose major initiatives in the electric grid area, proposals that remain among the most disturbing and controversial in the entire legislation.

Congress last approved an energy bill a decade ago and this was a golden opportunity to bring new thinking to a perennial challenge. But it has been an opportunity forfeited by the administration's all-out efforts to maximize fossil-fuel production at the expense of the environment and investments in conservation, efficiency and alternative fuels.

More than two years after work began to develop a new national energy policy, a vote may be imminent. Taking time out from hunting pheasants in South Dakota, Cheney apparently worked out a compromise over what was said to be the last remaining hurdle between the top House and Senate negotiators -- tax credits for corn-based ethanol.

There is a lot not to like in this legislation:

- Billions in incentives to build new nuclear plants, though only the nuclear folks know where.
- A big push for the construction of electric transmission lines, including giving the Federal Energy Regulatory Commission the right of eminent domain to take private property for them.
- The overemphasis in tying the nation's energy future to fossil fuels ensures continued foreign energy dependence, not independence. This country simply does not have the oil and gas reserves ever to be independent, even if every possible place could be drilled regardless of the consequences to the environment.
- Various areas where the nation's environmental laws would no longer apply, including mining on Indian reservations and in using certain oil extraction techniques such as "hydraulic fracturing."
- Trying to turn America's public lands and offshore areas into an oil tap, with huge consequences for the nation's wildest places and shorelines.
- No effort to raise vehicle fuel efficiency standards to rein in the nation's thirst for ever-greater quantities of petroleum, increasingly coming from foreign sources.

This legislation amounts to energy folly, which would lead the nation in the wrong direction, guaranteeing energy crises to come. Lawmakers should vote against it, for passage of this energy plan would amount to perpetrating an energy-plan hoax on the American people.

Atlanta Journal-Constitution

OUR OPINIONS: U.S. energy bill dupes the public

Staff

Tuesday, October 28, 2003

What Congress is doing to America's long-term energy strategy isn't a crime --- but it should be. This is a stickup, plain and simple.

Like most muggings, this crude exercise is taking place out of public view, mostly in closed-door meetings between sessions held by Rep. W.J. "Billy" Tauzin (R-La.) and Sen. Pete Domenici (R-N.M.). The duo's ostensible mandate is to develop legislation that would reduce dependence on foreign oil, promote conservation and fix gaps in the nation's electrical grid that appear to have caused this summer's crippling blackouts.

Instead, the work has degenerated into a lopsided orgy of unnecessary industry giveaways, rollbacks of environmental and consumer protections and predictably craven pork politics. It will cost taxpayers at least \$20 billion over the next decade, an amount that will probably triple when it's all toted up.

That's why Domenici and Tauzin are keeping details of this perfidy well-hidden from Democrats and Republicans alike. Snippets of the bill that have dribbled out aren't pretty:

- > Gives the Federal Energy Regulatory Commission authority over the siting of electrical transmission lines, stripping state agencies of that power and giving utility companies more power to seize private property.
- > Promotes offshore drilling near coastal beaches and marine sanctuaries while reducing local authority to oppose such projects.
- > Doubles subsidies for wasteful, corn-based ethanol fuel while shielding makers of another gasoline additive, MTBE, from lawsuits alleging that their product pollutes groundwater.

The bill also reportedly fails to increase fuel efficiency standards for passenger cars and trucks and repeals the Public Utility Holding Company Act that's intended to protect consumers from Enron-esque market shenanigans. It also may direct the Environmental Protection Agency to give pollution-choked areas such as metro Atlanta a break from legal deadlines to clean up their air.

Once they put the bill together, Tauzin and Domenici are promising Congress --- and by extension, the public --- a whole 48 hours to digest its contents before putting it to an up-or-down vote. That's not enough time to seriously consider the fine print of a 1,700-page bill, which is exactly the point.

Why give the intended victims of your crime any chance to stop it?

Omnibus Redux:

A Review of Republican Quotes on Omnibus Bills

“We had a House rule which says that we ought to have 3 days to review any omnibus bill like this. We are given a couple of hours. We waived that provision. We should not have.... We should not do business like this. It should not be done.”

- Rep. Jeff Flake (R-AZ) [CR, 02/13/03]

“The omnibus bill for fiscal 2003 was made necessary by Congress' inability to reconcile last year's Republican House appropriations bills and their Democratic counterparts in the Senate. This bill, touted as evidence of how a Republican House can work with a Republican Senate, makes me long for the glory days of gridlock.”

- Rep. Jeff Flake (R-AZ) [Arizona Republic, 02/19/03]

"This is the most outrageous pork-barrel bill since I've been in Congress. This omnibus bill spends \$13 billion more than the President's budget request while actually cutting the homeland security request for first responders' training and equipment by \$456 million."

- Rep. Jim Ramstad [Press Release, 02/13/03]

“Some of the complaints that we heard about how we got here are very legitimate, and the process was not the best, but we are finally here, and it is important that we get this bill off the deck, because fiscal year '04 is already descending upon us.”

- Rep. Bill Young (R-CA) [CR, 02/13/03]

"Hopefully, the next time members see me here at this microphone, I will be promoting a[n omnibus] conference report that we will all love to hate. I do not think any of us are going to like it, but it will be a way to conclude the fiscal year 2003 appropriations bills."

- Rep. Bill Young (R-CA) [Cong. Quarterly, 02/07/03]

“Mr. Speaker, every time we have one of these year-end omnibus appropriations bills, it always becomes sweetheart deal time.”

- Rep. John Duncan (R-TN) [CR, 11/17/03]

“Frankly, I would like to do a lot more. I would like to get all of the pork, all of these pork barrel projects that are not emergency, out of the bill. But lo and behold when I get home at night, as I did last night, and I turn on C-Span, it is really a big bazaar. It is Members of Congress in the House or the Senate, it does not matter which party, trading projects back and forth, back and forth.”

- Rep. Fred Upton (R-MI)

“I think that those of us who came here in 1995 as part of the crowd that was going to end these megabills, these omnibus spending bills, catch-all bills that were thrown in with all kinds of pork, all kinds of spending, this is a dishonest process. I lament that... We should be ashamed.”

- Rep. Randy Forbes (R-VA)

“Early in the process we were told that there was not going to be an omnibus ... everybody in this body knows it is wrong to have these omnibus bills where we throw almost everything into it. If anybody here can say with an honest expression on their face that they know what everything is in that bill, well, God

save you. We know that there is a lot of stuff in that. We are going to read over the next several months about issues that are in the bill, and we are going to be embarrassed by it.”

- Rep. Gil Gutknecht (R-MN) [11/18/99]

“We can do the appropriations process the hard way , sink bills with impossible riders or amendments; fight among ourselves about difficult issues that should be addressed through the authorizing process; get into a public relations war with the president over who is responsible for shutting down the government; and stay in session well into November or later to complete the bills. Or, we can do it the responsible way: Pass the bills on time; leave major policy development to the authorizing committees; reassure the American public that we can govern effectively by keeping the government up and running; claim victory for saving taxpayers' dollars and terminating wasteful programs; and finish the session on a winning note. It is my hope that we chose the responsible way.”

- Rep. Bob Livingston [Roll Call, 09/27/97]

"It will be impossible to pass Labor-HHS and VA-HUD bills. It gets us in the same box again. I thought that last year's omnibus bill was entirely irresponsible."

- Rep. Michael Castle [The Hill, 05/19/99]

“Annual end-of-year struggles to pass spending bills, the folding of multiple appropriations into huge, porky omnibus spending bills, the threat of government shutdowns - all this, as Bush says, looks messy to the public. In fact, it is messy.”

- Roll Call Editorial [6/12/00]

"[An omnibus] is not even a good question. Nobody is thinking in those terms at all."

- Majority Whip Tom DeLay [The Hill, 10/09/03]

"Congress loses because the administration makes all the decisions. With a long-term CR [continuing resolution], it's harder for budgeters to control and review spending. We're not trying for a long-term CR."

- Rich Meade, House Budget Committee Spokesman [The Hill, 10/09/03]

"A long-term continuing resolution that funds government operations at [previous-year] levels would have disastrous impacts on the war on terror, homeland security, and other important government responsibilities. It also would be fiscally irresponsible. It would fund low-priority programs the president has proposed to eliminate."

- Memo from Rep. Bill Young, October 2002

“[In an omnibus bill] there will be many billions of dollars of pork-barrel projects."

- Sen. John McCain [National Journal, 10/31/03]

The Foreign Operations Appropriations bill will devote less than 1% of the U.S.'s GDP for foreign affairs in Fiscal Year 2004. The House bill provides \$17.1 billion, an increase of \$900 million over last year. The Senate bill provides \$18.4 billion total in foreign assistance.

Not enough funding for HIV/AIDS:

- Much of the debate on the bill has focused on funds to combat the **HIV/AIDS** pandemic. Last year, Congress authorized \$15 billion over 5 years to fight the global AIDS crisis. President Bush and his Administration touted this bill as a \$3 billion commitment for fiscal year 2004. Yet, the Administration's budget request included only \$2 billion for AIDS in the Foreign Operations and Labor-HHS-Education spending bills combined.
- Congresswoman Nita Lowey led efforts during the House Appropriations Committee mark-up of the Foreign Operations bill to increase AIDS funds to the full \$3 billion promised for FY04. Just days before her amendment failed a full committee vote, the President again promoted the \$3 billion commitment in Africa, even insinuated that Congress was to blame for the \$1 billion shortfall. The Administration circulated a letter opposing the Lowey amendment during Committee consideration of the bill. The Administration even resorted to threatening to veto the bill if AIDS funding was increased by reducing the Millennium Challenge Account funds (through an amendment introduced by Congresswoman Carolyn Kilpatrick during floor consideration in July).
- The final House Foreign Ops bill contains \$1.4 billion for HIV/AIDS, TB and malaria. The Senate reached a bipartisan agreement to include almost \$300 million more than the House. Lowey introduced a Motion to Instruct Conferees to accept the Senate's higher number on November 5, 2003, and it was accepted by the majority. Along with funds in the Labor-HHS bill, the Senate number would bring total AIDS spending to \$2.4 billion in Fiscal Year 2004.

Too much funding for the President's Millennium Challenge Account:

- The bill includes the President's major initiative to overhaul the way we provide foreign aid, known as the **Millennium Challenge Account (MCA)**. The House bill includes \$800 million for MCA, while the Senate bill includes \$1 billion.
- MCA is a new, untested program that could be over-funded at the expense of increases in current, proven initiatives such as child survival and maternal health and development assistance programs. MCA's structure and agenda are not clear enough to justify such a great investment immediately while critical programs that are proven effective are shortchanged.

NOTE: There are no funds for Iraq reconstruction in this bill. All reconstruction funds passed to date for Fiscal Year 2004 were included in supplemental Appropriations bills.